

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
FERNANDO HERNANDEZ, JUANY :  
GUZMAN, BRANDON ROSE, IRVING : Case No.: 15-CV-1338 (ALC)  
COLLADO, ANDRES SALAS, BENGALY:  
KONATE, MICHAEL J. RODEIGUEZ, :  
WILTON A. DARDAINE, and JUAN :  
CORREA, :  
:  
Plaintiffs, :  
:  
-- against -- :  
:  
THE FRESH DIET, INC., LATE NIGHT :  
EXPRESS COURIER SERVICES, INC. :  
(FL), FRESH DIET EXPRESS CORP. :  
(NY), THE FRESH DIET – NY INC. (NY), :  
FRESH DIET GRAB & GO, INC. (FL) :  
a/k/a YS CATERING HOLDINGS, INC. :  
(FL) d/b/a YS CATERING, INC. (FL), :  
INNOVATIVE FOOD HOLDINGS, INC. :  
(FL), FRESH DIET EXPRESS CORP. (FL), :  
SYED HUSSAIN, Individually, JUDAH :  
SCHLOSS, Individually, and ZALMI :  
DUCHMAN, Individually, :  
:  
Defendants. :  
-----X

**DECLARATION OF DAVID SACK**

**DAVID SACK**, pursuant to 28 U.S.C. §1746, declares as follows:

1. I am an attorney duly admitted to the Bars of the State of New York and of this Court. I am associated with Feder Kaszovitz LLP, attorneys for Innovative Food Holdings, Inc. (“Innovative”), Defendant herein.
2. I make this Reply Declaration upon personal knowledge and a review of the file in this case in further support of Innovative’s motion, pursuant to Fed. R. Civ. P. 12(b)(6), to

dismiss the Third Amended Complaint (the “TAC”) as against Innovative in its entirety and with prejudice, without leave to amend.

3. Attached hereto as Exhibit A is a true and correct copy of an article entitled “I Feel Like I Was Ripped Off! The Fresh Diet Closes Without Alerting Employees, Clients,” from the Miami Herald, dated July 25, 2016. I accessed and downloaded this article from The Miami Herald website on August 19, 2016.

4. Attached hereto as Exhibit B is a true and correct copy of Innovative’s Form 10-Q for the period ending September 30, 2015. This document was filed with the SEC, and is publicly available through the EDGAR website.

Executed at New York, New York on August 24, 2016.

I declare under the penalties of perjury that the foregoing is true and correct.



---

David Sack